

RE: Update on Hours of Service Exemption Requests

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To: "Keenan, Michael" <michael.keenan@tc.gc.ca>, "Brosseau, Kevin" <kevin.brosseau@tc.gc.ca>, "Thangaraj, Arun" <arun.thangaraj@tc.gc.ca>
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Date: Sat, 12 Feb 2022 17:27:50 +0000

1.FMCSA: Federal Motor Carrier Safety Administration

2. Without relief on the US side, once a truck crosses the border if they are at/beyond the regular HoS limit of the US they would have to immediately rest and may not be able to complete their delivery. (So it would benefit drivers coming into Canada but not going into US)

Solicitor-Client Priv.

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Sent: Saturday, February 12, 2022 12:09 PM
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Thanks

We will brief the Minister on this on the call being set up for around 1:30-1:45

A few questions

- 1) who is FMCSA?
- 2) Very good point we need aligned relief with US, but is there not some relief even if on the Canadian side?
- 3) Can we be proactive in interpreting the emergency clause, and provide guidance/interpretation that there is relief under limited circumstances for limited time due to emergency. This feels like a massive emergency we are under. Is this appropriate?

From: Brosseau, Kevin <Kevin.Brosseau@tc.gc.ca>
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Michael

Summary below thanks to Melanie, Stacey and Ibrahima.

Kevin

As of February 11, TC started to receive questions from industry with respect to Hours of Service (HoS) Exemptions related to the ongoing border blockades. **While no formal request has been submitted to TC**, the following organizations have enquired about HoS exemptions:

- Canadian Vehicle Manufacturers Association – CVMA (including Ford, GM, Stellantis)
- Alberta Cattle Feeders Association

Section 16 of the *Motor Vehicle Transport Act* (MVTA) permits the Minister to provide an exemption to the Hours of Service regulations if the exemption is in the public interest and is not likely to affect motor carrier safety. This authority is delegated to the Director General, Multi-modal and Road Safety Programs.

We have started our analysis of these requests to determine if an HoS Exemption under the MVTA would meet the public interest test. There are a few steps in this process:

- Engage with the proponents to get a clear understanding of the scope and impacts of the blockades on the motor carriers.
 - **A meeting took place Friday Feb 11, 2022 with CVMA members and we are scheduled to engage with Cattle Feeders on Monday Feb 14, 2022.** CVMA indicated that they are planning to send a formal request, although the situation continues to evolve with the recent court injunction.
- Consult with the relevant province/territory with respect to the potential exemption
- If an exemption is warranted, craft the scope of the exemption as to ensure it is appropriately targeted to the situation and contains appropriate safety mitigations.
- Share our intent with FMCSA and validate that similar exemption would be in place in the US. For an HoS exemption to be effective for cross-border truckers, an equivalent exemption would need to be in place on the US side of the border.
 - **We have reached out to FMCSA** to confirm if the FMCSA Declaration already in place for COVID-19 is applicable to the blockade situation. A meeting is scheduled with FMCSA for Monday Feb 14, 2022

Another important consideration to note is that **Section 76 - Emergencies and Adverse Driving Conditions** of the *Commercial Vehicle Drivers Hours of Service Regulations* already provides relief to HoS rules in cases of an emergency. This may be applicable in the current context.